

Senate File 59 - Introduced

SENATE FILE 59

BY DEARDEN

A BILL FOR

1 An Act relating to the keeping of farm deer and preserve
2 whitetail and including penalties and applicability
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

FARM DEER

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Section 1. Section 170.1, subsection 5, Code 2013, is amended to read as follows:

5. ~~"Fence"~~ "Fencing" means a boundary perimeter fence and a secondary fence which encloses farm deer within a landowner's property as required to be constructed and maintained pursuant to section 170.4.

Sec. 2. Section 170.2, subsection 2, paragraph b, Code 2013, is amended to read as follows:

b. Advise the department about the administration and enforcement of this chapter, including but not limited to consulting with the department regarding the rules adopted under this chapter, the registration of landowners, the certification of ~~fences~~ fencing, and disciplinary actions. However, the council shall not control policy decisions or direct the administration or enforcement of this chapter.

Sec. 3. Section 170.3, subsection 1, Code 2013, is amended to read as follows:

1. Farm deer are livestock as provided in this title and are principally subject to regulation by the department of agriculture and land stewardship, and also the department of natural resources as specifically provided in this chapter. The regulations adopted by the department of agriculture and land stewardship ~~may~~ shall include but are not limited to providing for the importation, transportation, and disease control of farm deer and for fencing certification and registration requirements under this chapter. The department of natural resources shall not require that the landowner be issued a license or permit for keeping farm deer or for the construction of ~~a fence~~ fencing for keeping farm deer.

Sec. 4. Section 170.3A, Code 2013, is amended to read as follows:

170.3A Chronic wasting disease control program — testing.

1. The department shall establish and administer a chronic

1 wasting disease control program for the control of chronic
2 wasting disease which threatens farm deer. The program shall
3 include procedures for the inspection and testing of farm deer,
4 responses to reported cases of chronic wasting disease, and
5 methods to ensure that owners of farm deer may engage in the
6 movement and sale of farm deer.

7 2. Farm deer that die or are sent for slaughter shall
8 be tested for chronic wasting disease as set forth in rules
9 adopted by the department. The landowner who keeps such farm
10 deer shall pay the full cost of the testing.

11 Sec. 5. Section 170.3B, Code 2013, is amended to read as
12 follows:

13 **170.3B ~~Farm deer administration~~ Registration and fee — proof**
14 **of financial responsibility.**

15 1. ~~The department may establish a farm deer administration~~ A
16 landowner who keeps farm deer under this chapter shall annually
17 register with the department by June 30. A landowner shall not
18 be registered under this section unless the landowner meets the
19 applicable fencing certification and other requirements of this
20 chapter. If a landowner meets the applicable certification and
21 other requirements of this chapter, the landowner shall pay the
22 department a registration fee which shall be annually imposed
23 on each landowner who keeps farm deer in this state. The
24 amount of the fee shall ~~not exceed two hundred~~ be five thousand
25 dollars per year. The fee shall be collected by the department
26 in a manner specified by rules adopted by the department after
27 consulting with the farm deer council established in section
28 170.2. The collected fees shall be credited to the farm deer
29 administration fund created pursuant to section 170.3C.

30 2. a. An initial application for registration under
31 subsection 1 shall be accompanied by a surety or cash
32 performance bond in conformity with rules adopted by the
33 department, in the principal amount of a minimum of one hundred
34 thousand dollars. The bond shall be executed by a surety
35 company authorized to do business in this state, and the bond

1 shall be continuous in nature until canceled by the surety with
2 not less than sixty days' written notice to both the landowner
3 and to the department. The notice shall indicate the surety's
4 intent to cancel the bond on a date at least sixty days after
5 the date of the notice.

6 b. The bond shall be payable to the state to indemnify the
7 state for any costs that may be incurred in the event that a
8 confirmed case of chronic wasting disease is found in farm deer
9 kept by the applicant who purchased the bond.

10 Sec. 6. Section 170.3C, subsection 1, Code 2013, is amended
11 to read as follows:

12 1. The fund shall be composed of moneys appropriated by
13 the general assembly and moneys available to and obtained or
14 accepted by the department from the United States or private
15 sources for placement in the fund. The fund shall include all
16 moneys collected from the farm deer ~~administration~~ registration
17 fee as provided in section 170.3B and penalties assessed
18 pursuant to section 170.8, subsection 2.

19 Sec. 7. Section 170.4, Code 2013, is amended to read as
20 follows:

21 **170.4 Requirements for keeping whitetail — fence fencing**
22 **certification.**

23 A landowner shall not keep whitetail as farm deer, unless the
24 whitetail is kept on land which is enclosed by a double fence,
25 which includes a perimeter fence around the enclosed area and
26 a secondary fence that is a minimum of thirty feet inside the
27 perimeter fence. The ~~fence~~ fences must be constructed and
28 maintained as prescribed by rules adopted by the department. A
29 landowner shall not keep the whitetail unless the ~~fence~~ fencing
30 is certified in a manner and according to procedures required
31 by the department. The ~~fence~~ fences shall be constructed and
32 maintained to ensure that whitetail are kept in the enclosure
33 and that other deer are excluded from the enclosure. ~~A fence~~
34 ~~that is constructed on or after May 23, 2003,~~ The fences shall
35 be at least ~~eight~~ ten feet in height above ground level. The

1 department of agriculture and land stewardship ~~may~~ shall
2 require that the ~~fence is~~ fencing be inspected and approved
3 prior to certification. The department of natural resources
4 may periodically inspect the ~~fence~~ fencing according to
5 appointment with the enclosure's landowner.

6 Sec. 8. NEW SECTION. **170.4A Missing or escaped farm deer.**

7 A landowner who keeps farm deer shall notify the department
8 within forty-eight hours of discovering that a farm deer has
9 escaped or is missing from enclosed land. A farm deer that
10 has escaped or is missing from enclosed land for more than ten
11 days shall be subject to the jurisdiction of the department of
12 natural resources.

13 Sec. 9. Section 170.5, subsection 1, paragraph a, Code 2013,
14 is amended to read as follows:

15 a. A statement verifying that the ~~fence which encloses~~
16 ~~the land is certified by~~ landowner is registered with the
17 department of agriculture and land stewardship pursuant to
18 section ~~170.4~~ 170.3B.

19 Sec. 10. Section 170.6, Code 2013, is amended to read as
20 follows:

21 **170.6 Disciplinary proceedings.**

22 1. The department of agriculture and land stewardship may
23 suspend or revoke a ~~certification~~ registration issued pursuant
24 to section ~~170.4~~ 170.3B if the department determines that a
25 landowner has done any of the following:

26 a. Provided false information to the department in an
27 application for ~~certification~~ registration pursuant to section
28 ~~170.4~~ 170.3B.

29 b. Failed to provide notice or access to the department of
30 natural resources and the department of agriculture and land
31 stewardship as required by section 170.5.

32 c. Failed to maintain a ~~fence~~ fencing enclosing the land
33 where a whitetail is kept as required in section 170.4.

34 d. ~~Forces or lures~~ Forced or lured a whitetail that is
35 property of the state onto the enclosed land.

1 ~~e. Restrains or inhibits~~ Restrained or inhibited a whitetail
2 that is property of the state from leaving the enclosed land.

3 ~~f. Takes~~ Taken a whitetail that is property of the state
4 which is enclosed on the property in violation of a chapter in
5 Title XI, subtitle 6.

6 ~~g. Falsely claimed that a farm deer died or was sent for~~
7 slaughter when the farm deer escaped or was otherwise sold.

8 ~~h. Failed to maintain proof of financial responsibility as~~
9 required in section 170.3B.

10 2. If the department suspends a landowner's ~~certification~~
11 registration, the landowner shall not release additional
12 whitetail onto the enclosed land, unless otherwise provided
13 in the department's order for suspension. If the department
14 revokes a landowner's ~~certification~~ registration under this
15 section, the landowner shall provide for the disposition of the
16 enclosed whitetail by any lawful means.

17 Sec. 11. Section 170.8, Code 2013, is amended to read as
18 follows:

19 **170.8 Penalties.**

20 1. A person is guilty of taking a whitetail in violation of
21 section 481A.48 if the whitetail is on the land enclosed by a
22 ~~fence~~ fencing required to be certified as provided in section
23 170.4 and the person does any of the following:

24 ~~1-~~ a. Forces or lures a whitetail that is property of the
25 state onto the enclosed land.

26 ~~2-~~ b. Restrains or inhibits a whitetail that is property of
27 the state from leaving the enclosed land.

28 ~~3-~~ c. Takes a whitetail that is property of the state that
29 is within the enclosure in violation of a chapter in Title XI,
30 subtitle 6.

31 2. A person who falsely claims that a farm deer died or
32 was sent for slaughter when the farm deer escaped or was
33 otherwise sold is subject to a civil penalty of five thousand
34 dollars. The civil penalty shall be deposited in the farm deer
35 administration fund created in section 170.3C.

1 Sec. 12. APPLICABILITY.

2 1. The section of this Act amending section 170.4 applies to
3 fencing that is newly constructed on or after July 1, 2013.

4 2. The section of this Act amending section 170.4 is
5 applicable on or after July 1, 2014, to fences constructed
6 before July 1, 2013, and in existence on July 1, 2014.

7 DIVISION II

8 PRESERVE WHITETAIL

9 Sec. 13. Section 484C.1, subsection 5, Code 2013, is amended
10 to read as follows:

11 5. ~~"Fence"~~ "Fencing" means a boundary perimeter fence and
12 a secondary fence which encloses preserve whitetail within
13 a landowner's property as required to be constructed and
14 maintained pursuant to this chapter.

15 Sec. 14. Section 484C.5, subsection 1, unnumbered paragraph
16 1, Code 2013, is amended to read as follows:

17 A hunting preserve must include at least three hundred
18 twenty contiguous acres which are enclosed by ~~a fence~~ fencing
19 certified pursuant to section 484C.6. However, the hunting
20 preserve may include a fewer number of enclosed acres if any of
21 the following applies:

22 Sec. 15. Section 484C.6, Code 2013, is amended to read as
23 follows:

24 **484C.6 ~~Fencing — certification~~ Fencing certification —**
25 **identification of animals.**

26 1. a. ~~A fence~~ Fencing required to enclose preserve
27 whitetail under section 484C.5 must be constructed and
28 maintained as prescribed by rules adopted by the department
29 and as certified by the department. ~~The fence~~ fencing shall
30 be constructed and maintained to ensure that the preserve
31 whitetail are kept in the enclosure and all other whitetail are
32 excluded from the enclosure.

33 2. b. ~~A fence~~ Fencing that was certified by the department
34 of agriculture and land stewardship pursuant to chapter 170
35 prior to July 1, 2005, shall be certified by the department of

1 natural resources.

2 ~~3. c.~~ A fence A hunting preserve shall be enclosed by
3 a double fence, which includes a perimeter fence around the
4 enclosed area and a secondary fence that is a minimum of thirty
5 feet inside the perimeter fence. The fences shall be at least
6 eight ten feet in height above ground level. The enclosure
7 perimeter fence shall be posted with signs as prescribed by
8 rules adopted by the department.

9 ~~4. d.~~ The department may shall require that the fence
10 fencing be inspected and approved by the department prior to
11 certification. The department shall periodically inspect
12 the fence fencing at any reasonable time by appointment or
13 by providing the landowner with at least forty-eight hours'
14 notice.

15 2. Whitetail kept as preserve whitetail shall bear
16 identification that is one of the following:

17 a. An identification ear tag approved by the United States
18 department of agriculture that conforms to the alphanumeric
19 national uniform tagging system as defined in 9 C.F.R. ch. 1,
20 subch. c, pt. 71.1, revised as of July 21, 2006.

21 b. A plastic or other material tag that includes the
22 official herd number issued by the United States department
23 of agriculture, and includes individual animal identification
24 which is no more than five digits and is unique for each
25 animal.

26 c. A legible tattoo, that includes the official herd number
27 issued by the United States department of agriculture, and
28 includes individual animal identification which is no more than
29 five digits and is unique for each animal.

30 d. A plastic or other material tag that provides unique
31 animal identification and is issued and approved by the North
32 American deer farmers association.

33 3. Preserve whitetail previously kept as farm deer
34 that are released on a hunting preserve shall maintain the
35 identification affixed on the whitetail pursuant to chapter 170

1 and rules adopted to implement that chapter.

2 Sec. 16. Section 484C.7, Code 2013, is amended to read as
3 follows:

4 **484C.7 Registration and fee — proof of financial**
5 **responsibility.**

6 1. A landowner who keeps preserve whitetail shall annually
7 register the landowner's hunting preserve with the department
8 by June 30. ~~The~~ A landowner shall not be registered under
9 this section unless the landowner meets the applicable fencing
10 certification and other requirements of this chapter. If a
11 landowner meets the applicable fencing certification and other
12 requirements of this chapter, the landowner shall pay the
13 department a registration fee. The amount of the registration
14 fee shall ~~not exceed three hundred fifty~~ be five thousand
15 dollars per fiscal year. The fee shall be deposited into the
16 state fish and game protection fund.

17 2. a. An initial application for registration under
18 subsection 1 shall be accompanied by a surety or cash
19 performance bond in conformity with rules adopted by the
20 department, in the principal amount of a minimum of one hundred
21 thousand dollars. The bond shall be executed by a surety
22 company authorized to do business in this state, and the bond
23 shall be continuous in nature until canceled by the surety with
24 not less than sixty days' written notice to both the landowner
25 and to the department. The notice shall indicate the surety's
26 intent to cancel the bond on a date at least sixty days after
27 the date of the notice.

28 b. The bond shall be payable to the state to indemnify the
29 state for any costs that may be incurred in the event that a
30 confirmed case of chronic wasting disease is found in preserve
31 whitetail kept by the applicant who purchased the bond.

32 Sec. 17. Section 484C.8, subsection 1, paragraphs a and c,
33 Code 2013, are amended to read as follows:

34 a. A statement verifying that the fence which encloses the
35 land ~~landowner~~ is certified by registered with the department

1 pursuant to section ~~484C.6~~ 484C.7.

2 *c.* The location of the land enclosed by the fence fencing.

3 Sec. 18. Section 484C.12, Code 2013, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 3. Preserve whitetail that die or are
6 taken by persons on the hunting preserve shall be tested for
7 chronic wasting disease as set forth in rules adopted by the
8 department. The landowner or the person taking the preserve
9 whitetail shall pay the full cost of the testing.

10 Sec. 19. Section 484C.13, subsection 3, unnumbered
11 paragraph 1, Code 2013, is amended to read as follows:

12 The department may suspend or revoke a ~~fence certification~~
13 registration issued pursuant to section ~~484C.6~~ 484C.7 if the
14 department determines that a landowner has done any of the
15 following:

16 Sec. 20. Section 484C.13, subsection 3, paragraph d, Code
17 2013, is amended to read as follows:

18 *d.* Failed to maintain a ~~fence~~ fencing enclosing the land
19 where preserve whitetail are kept as required by this chapter.
20 The department shall not suspend or revoke a ~~certification~~
21 registration if the landowner remedies each item as provided
22 in a notice of deficiency delivered to the landowner by the
23 department. The remedies shall be completed within seven days
24 from receipt of the notice. The notice shall be hand delivered
25 or sent by certified mail.

26 Sec. 21. Section 484C.13, subsection 3, Code 2013, is
27 amended by adding the following new paragraph:

28 NEW PARAGRAPH. *e.* Failed to maintain proof of financial
29 responsibility as required in section 484C.7.

30 Sec. 22. Section 484C.13, Code 2013, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 4. A person who removes identification
33 required in section 484C.6 from a preserve whitetail, prior to
34 the taking of the whitetail, is subject to a civil penalty of
35 five hundred dollars.

1 Sec. 23. APPLICABILITY.

2 1. The section of this Act amending section 484C.6,
3 subsection 1, applies to fencing that is newly constructed on
4 or after July 1, 2013.

5 2. The section of this Act amending section 484C.6,
6 subsection 1, is applicable on or after July 1, 2014, to fences
7 constructed before July 1, 2013, and in existence on July 1,
8 2014.

9

EXPLANATION

10 This bill relates to the keeping of farm deer and preserve
11 whitetail and includes penalties and applicability provisions.

12 DIVISION I. Division I of the bill relates to regulation
13 of the keeping of farm deer, which is principally under the
14 purview of the department of agriculture and land stewardship
15 (DALs). DALs is required to adopt rules providing for the
16 importation, transportation, and disease control of farm deer
17 and for fencing certification and registration requirements
18 under the Code chapter.

19 Farm deer that die or are sent for slaughter must be tested
20 for chronic wasting disease pursuant to rules adopted by DALs,
21 and the landowner must pay the full cost of the testing.

22 A landowner who keeps farm deer must register with DALs by
23 June 30 each year. In order to register, the landowner must
24 meet the fencing certification requirements, show proof of
25 financial responsibility via a surety or cash performance bond,
26 and pay a registration fee of \$5,000 per year. The surety or
27 cash performance bond must be in a minimum amount of \$100,000,
28 payable to indemnify the state in the event that a confirmed
29 case of chronic wasting disease is found in farm deer kept by
30 the landowner. Registration fees are placed in the farm deer
31 administration fund and appropriated to DALs for the purpose of
32 administering the chronic wasting disease control program.

33 The bill requires that fencing enclosing land on which
34 whitetail are kept as farm deer must include a perimeter
35 fence around the enclosed area and a secondary fence that is

1 a minimum of 30 feet inside the perimeter fence, must be 10
2 feet tall instead of eight feet tall, and must be inspected
3 and approved prior to certification of the fencing. The
4 new requirements are applicable to fencing that is newly
5 constructed on or after July 1, 2013, when the bill takes
6 effect, and are applicable on or after July 1, 2014, to fences
7 existing before July 1, 2013.

8 A landowner who keeps farm deer shall notify DALR within 48
9 hours of discovering that a farm deer has escaped or is missing
10 from enclosed land. A farm deer that has escaped or is missing
11 for more than 10 days is subject to the jurisdiction of the
12 department of natural resources.

13 A landowner's registration may be suspended or revoked for
14 failure to maintain proof of financial responsibility, or
15 for falsely claiming that a farm deer died or was sent for
16 slaughter when the farm deer escaped or was otherwise sold. A
17 person who makes such a false claim is also subject to a civil
18 penalty of \$5,000, which will be deposited in the farm deer
19 administration fund.

20 DIVISION II. Division II of the bill relates to regulation
21 of the keeping of preserve whitetail on a hunting preserve,
22 which is principally under the purview of the department of
23 natural resources (department).

24 The bill requires that a landowner cannot keep whitetail on
25 a hunting preserve unless the preserve is enclosed by double
26 fencing that includes a perimeter fence around the enclosed
27 area and a secondary fence that is a minimum of 30 feet inside
28 the perimeter fence. The fence must be at least 10 feet in
29 height. The fencing requirements are applicable to fences
30 that are newly constructed on or after July 1, 2013, when the
31 bill takes effect, and is applicable on or after July 1, 2014,
32 to fences existing before July 1, 2013. The department must
33 inspect and approve the fencing prior to certification.

34 Whitetail kept on a hunting preserve must also bear an
35 ear tag, tattoo, or other identification as specified in

1 the bill. Preserve whitetail previously kept as farm deer
2 that are released on a hunting preserve shall maintain the
3 identification affixed on them pursuant to the requirements
4 applicable to farm deer under Code chapter 170 and rules
5 adopted to implement that Code chapter.

6 A landowner who keeps whitetail on a hunting preserve must
7 register each year and pay the registration fee of \$5,000. A
8 landowner cannot be registered unless the landowner meets the
9 applicable fencing certification and other requirements of Code
10 chapter 484C. The initial application for registration must
11 include proof of financial responsibility via a surety or cash
12 performance bond. The surety or cash performance bond must be
13 in a minimum amount of \$100,000, payable to indemnify the state
14 in the event that a confirmed case of chronic wasting disease
15 is found in preserve whitetail kept by the landowner.

16 Preserve whitetail that die or are taken by persons hunting
17 on the hunting preserve shall be tested for chronic wasting
18 disease as set forth in rules adopted by the department. The
19 landowner or the hunter taking the preserve whitetail shall pay
20 the full cost of the testing.

21 A person who removes the required identification from a
22 preserve whitetail, prior to the taking of the whitetail, is
23 subject to a civil penalty of \$500.